

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

DONALD A. REECE,

Petitioner,

vs.

RENE BAKER,

Respondent.

3:12-cv-00193-RCJ-WGC

ORDER

Petitioner has filed a second motion for appointment of counsel (ECF No. 13) and a motion for default judgment (ECF No. 14). Petitioner has also opposed the respondents' recent motion for extension of time (ECF No. 17). This opposition is moot as the Court granted the additional time requested on a showing of good cause by respondents. The respondents have opposed both motions (ECF Nos. 15 and 16) and petitioner has filed a reply as to the motion for counsel (ECF No. 18).

As the Court previously noted, there is no constitutional right to appointed counsel for a federal habeas corpus proceeding. *Pennsylvania v. Finley*, 481 U.S. 551, 555 (1987); *Bonin v. Vasquez*, 999 F.2d 425, 428 (9th Cir. 1993). The decision to appoint counsel is generally discretionary. *Chaney v. Lewis*, 801 F.2d 1191, 1196 (9th Cir. 1986), *cert. denied*, 481 U.S. 1023 (1987); *Bashor v. Risley*, 730 F.2d 1228, 1234 (9th Cir.), *cert. denied*, 469 U.S. 838 (1984). Petitioner has presented nothing that persuades the Court of a change in circumstances or that counsel is warranted now when it was not warranted earlier. The motion shall be denied.

Petitioner's motion for default argues that respondents have filed a request for additional time to respond to the petition and has "chose not to respond" to the petition. Respondents note that the Court

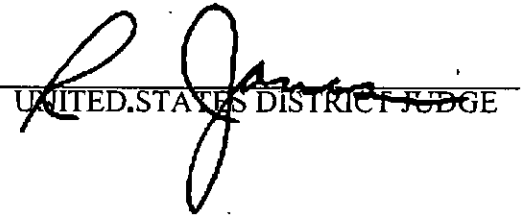
1 has ordered a response filed no later than December 19, 2012, thereby making the request for default
2 baseless.

3 The district court may enter a default judgment against a respondent who fails to plead or
4 otherwise defend. Fed.R.Civ.P. 55(a). However, where the pleading or response is not yet due, no
5 default has occurred. This motion shall also be denied.

6 **IT IS THEREFORE ORDERED** that petitioner's second motion for appointment of counsel
7 (ECF No. 13) and his motion for default judgment (ECF No. 14) are **DENIED**.

8 Dated this 15th day of January, 2013.

9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26


UNITED STATES DISTRICT JUDGE